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6 **BEFORE THE**
7 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 **In the Matter of the First Amended**
11 **Accusation Against:**

Case No. OT 2007-43

12 KATHERINE KOLBACKI
13 221 King Street, Apt. 112
14 San Francisco, CA 94107

DEFAULT DECISION AND ORDER

Occupational Therapist License No. OT 8500

[Gov. Code, §11520]

Respondent.

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16 **FINDINGS OF FACT**

17 1. On or about December 1, 2010, Complainant Heather Martin, in her official capacity
18 as the Executive Officer of the California Board of Occupational Therapy, Department of
19 Consumer Affairs, filed First Amended Accusation No. OT 2007-43 against Katherine Kolbacki
20 (Respondent) before the California Board of Occupational Therapy. (The First Amended
21 Accusation is attached as Exhibit A.)

22 2. On or about October 28, 2005, the California Board of Occupational Therapy (Board)
23 issued Occupational Therapist License No. OT 8500 to Respondent. The Occupational Therapist
24 License expired on December 31, 2008, and has not been renewed.

25 3. On or about December 1, 2010, Respondent was served by Certified and First Class
26 Mail copies of First Amended Accusation No. OT 2007-43, Statement to Respondent, Notice of
27 Defense (two copies), Request for Discovery, and Discovery Statutes (Government Code sections
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1 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
2 and Professions Code section 136, is required to be reported and maintained with the Board.

3 Respondent's address was and is 221 King Street, Apt. 112, San Francisco, CA 94107.

4 4. On or about August 2, 2010, Respondent was served by Certified and First Class Mail
5 copies of the Petition for an Order to Compel Psychiatric Examination No. OT 2007-43 and the
6 Order No. OT 2007-43, at Respondent's address of record which, pursuant to Business and
7 Professions Code section 136, is required to be reported and maintained with the Board.
8 Respondent's address was and is 221 King Street, Apt. 112, San Francisco, CA 94107.

9 5. Service of the First Amended Accusation was effective as a matter of law under the
10 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
11 Code section 124.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the First Amended Accusation, and therefore waived her right to a hearing on the merits of First
18 Amended Accusation No. OT 2007-43.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 evidence on file herein, finds that the allegations contained in First Amended Accusation No. OT
26 2007-43 are true.

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1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement are \$7,179.50 as of December 16, 2010.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Katherine Kolbacki has
6 subjected her Occupational Therapist License No. OT 8500 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The California Board of Occupational Therapy is authorized to revoke Respondent's
9 Occupational Therapist License based upon the following violations as alleged in the First
10 Amended Accusation:

11 a. Business and Professions Code (Code) section 821 (failure to comply with the order
12 issued pursuant to Code section 820).

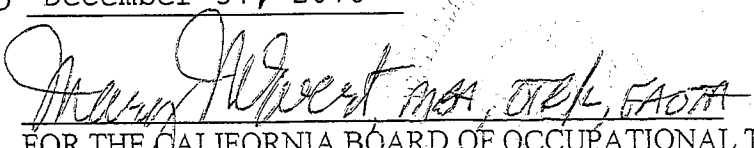
13 ORDER

14 IT IS SO ORDERED that Occupational Therapist License No. OT 8500, issued to
15 Respondent Katherine Kolbacki, is revoked.

16 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
17 written motion requesting that the Decision be vacated and stating the grounds relied on within
18 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
19 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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21 This Decision shall become effective on January 10, 2011.

22 It is so ORDERED December 31, 2010

23 
24 FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
25 DEPARTMENT OF CONSUMER AFFAIRS

26
27 Attachment:
28 Exhibit A: First Amended Accusation No. OT 2007-43